

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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VICTOR MARTE,

Petitioner,

MEMORANDUM & ORDER
25-CV-3415 (EK)

-against-

SUPERINTENDENT, WALLKILL CORRECTIONAL
FACILITY,

Respondent.

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ERIC KOMITEE, United States District Judge:

Victor Marte filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. For the reasons set forth below, this petition is transferred to the United States District Court for the Southern District of New York.

I. Background

Marte was convicted in Westchester County Court of criminal possession of a controlled substance in the second degree, criminal possession of a weapon in the third degree, and criminal use of drug paraphernalia in the second degree. See Petition 1, ECF No. 1. Marte appealed his conviction, and the Appellate Division affirmed in April 2024. *People v. Marte*, 209 N.Y.S.3d 530 (App. Div. 2d Dep't 2024). The New York Court of Appeals denied leave to appeal in February 2025. *People v. Marte*, 254 N.E.3d 629 (N.Y. 2025). Marte is currently

incarcerated at the Wallkill Correctional Facility. Petition 1.

II. Discussion

The Eastern District of New York is not the proper venue for Marte's petition. A petition for habeas corpus "may be filed in the district court for the district wherein such person is in custody or in the district court for the district within which the State court was held which convicted and sentenced him." 28 U.S.C. § 2241(d). Additionally, the Local Rules for the Southern and Eastern Districts of New York provide that "a writ of habeas corpus made by persons under the judgment and sentence of a court of the State of New York shall be filed, heard and determined in the District Court for the district within which they were convicted and sentenced." L. Civil R. 83.3.

Marte was convicted and sentenced in Westchester County Court and is in custody at Wallkill Correctional Facility in Ulster County. Petition 1. Both counties are within the Southern District of New York. See 28 U.S.C. § 112(b). The Southern District of New York is therefore the proper venue for this action, and transfer to that district is appropriate. See, e.g., *Van Guilder v. Tynon*, No. 20-CV-2839, 2020 WL 3618762, at *1 (E.D.N.Y. July 2, 2020); 28 U.S.C. § 1406 (district court may transfer a case "to any district or division in which it could have been brought.").

III. Conclusion

Marte's petition for a writ of habeas corpus is transferred to the United States District Court for the Southern District of New York. The Clerk of Court is respectfully directed to mail a copy of this order to Marte. Upon transfer, the Clerk of Court is respectfully directed to close this case. This Court's Order to Show Cause dated July 2 is hereby withdrawn. Rule 83.1 of the Local Rules, which requires a seven-day delay before transfer is effectuated, is hereby waived.

SO ORDERED.

/s/ Eric Komitee
ERIC KOMITEE
United States District Judge

Dated: July 22, 2025
Brooklyn, New York